

Notice

The Montgomery Circuit and Superior Courts propose an amendment their local rules on caseload allocation at LR54-CR2.2-1, criminal case assignments, and LR54-AR00-1, civil case assignments, attached, which may be examined in the office of the Clerk of Montgomery County, on the Clerk's website (www.montgomeryco.net), and on the Indiana Judicial website (www.in.gov/judiciary/rules/local).

The Judges find good cause to deviate from the schedule adopted by the Division of State Court Administration for amending local court rules.

Comments may be submitted by the bar and public until December 15, 2007. Comments should be sent to the Honorable David A. Ault, Montgomery Superior Court, 100 E. Main Street, Crawfordsville, Indiana 47933, or by facsimile to 765-364-6465, or by e-mail to judge.ault@montgomeryco.net.

The effective date of the proposed rules shall be January 1, 2008.

~~Local Rule 1~~

LR54-AR00-1

Civil Case Assignments

~~Pursuant to IC 33-5-36.6-9 and Trial Rule 81 of the Indiana Rules of Procedure,~~
Civil actions and proceedings in the Montgomery Circuit and Superior Courts shall be assigned among the courts as follows:

A. Montgomery Circuit Court: Any civil ~~and criminal~~ actions or proceedings and all juvenile actions or proceedings.

B. Montgomery Superior Court I: Any civil ~~and criminal~~ actions or proceedings; all probate actions or proceedings; and all civil domestic relations proceedings in which the Prosecuting Attorney has appeared ~~by virtue of his duties under~~ pursuant to 42 USC Section 602(a)(26), as amended (“Title IV-D” proceedings) ~~and all criminal proceedings for non support of dependent children (IC 35-46-1-5).~~

C. Montgomery ~~County~~ Superior Court II: All civil cases founded on contract or tort in which the ~~debt or damage~~ claimed does not exceed the statutory small claims jurisdictional amount; all possessory actions between landlord and tenant in which the ~~past due rent~~ claim does not exceed the statutory small claims jurisdictional amount; all actions for possession of property where the value of the property sought to be recovered

does not exceed the statutory small claims jurisdictional amount; ~~and all misdemeanor,~~
infraction and ordinance violation cases; any civil action; ~~or proceeding~~ and any juvenile
proceeding, or probate proceeding transferred from Circuit Court or Superior Court 1.

D. The Judge of the Circuit Court and the Superior Court 1 shall each serve as
Judge Pro Tem of the Superior Court 2 for a block of time of one day each month, at
which time small claims proceedings shall be heard.

Case Assignment

A. All ~~misdemeanor~~, traffic, infraction and ordinance violation cases shall be assigned to the Montgomery Superior Court II.

B. Misdemeanor cases will be filed in Superior Court 2, Superior Court 1 and Circuit Court on a rotating basis so one-third of the cases are filed in each court.

~~C.B.~~ All Class D felony cases, all cases for nonsupport of a dependent child, ~~and all misdemeanor cases with enhanced penalties or which have accompanying habitual offender affidavits~~ shall be assigned to Montgomery Superior Court 1.

~~D.C.~~ All Class B and Class C felony cases shall be assigned to the Montgomery Circuit Court.

~~E.D.~~ All Class A felony and murder cases shall be assigned on an alternating basis to the Montgomery Circuit Court and Montgomery Superior Court 1, with such cases to alternate between courts so that such offenses which occurred in ~~July, 1995~~ odd numbered months shall be filed in Circuit Court, and such offenses which occurred in ~~August, 1995~~ even-numbered months shall be assigned to Superior Court 1 ~~and to alternate thereafter in a like manner. In order to~~

~~account for any seasonal or cyclical patterns that may emerge, the months shall alternate in succeeding years so that in calendar year 1996, such cases for July, 1996, shall be assigned to Superior Court and cases for August, 1996, shall be assigned to Circuit Court, and alternating thereafter in a like manner in the subsequent months and years.~~

F. E. To promote judicial economy, the foregoing assignment of cases among the three courts shall be modified with respect to offenses charging the same defendant or arising out of the same or related incidents in which litigation is pending, ~~such as an invasion of privacy or intimidation charge~~ so that the new charge may be filed in the court in which the defendant has already been charged or related litigation is pending. ~~Or the related litigation may be transferred to the court in which the higher charge may be pending, depending on which court has jurisdiction to hear the charged offense, even though such assignment would not otherwise comply with this rule.~~

~~F. Where a lesser charge is filed which would be a violation of probation or grounds upon which to consider revocation of a bond, the lesser charge may be filed with the court in which the former charge was filed, even though such assignment would not othese comply with this rule.~~

G. This Case Assignment rule notwithstanding, consistent with LR 54 - CR2.3-2 and the Family Court Rules, cases may

be transferred from one court to another as may be
appropriate.